

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

ONEBEACON AMERICA INSURANCE  
COMPANY,  
Plaintiff,

CIVIL ACTION  
NO: 04-11753-JLT

vs.

BLUE WATER ENTERPRISES, INC.  
Defendant.

STATUS REPORT

Now comes the plaintiff, OneBeacon America Insurance Company, in the above-entitled action, by and through its undersigned attorneys, Clinton & Muzyka, P.C., and submits this Status Report.

On August 22, 2005, the Court allowed a proposed Order jointly submitted by the parties. Pursuant to the Paragraph Nos. 3 & 4 of said Order, the Umpire was to submit his findings to the three (3) shipyards agreed upon by the parties by or before September 14, 2005.

Additionally, the defendant was to make his vessel available to the three (3) shipyards for inspection by or before October 15, 2004. As ordered, the parties agreed upon three (3) shipyards and the Umpire forwarded his findings to these shipyards with instructions for the submission of repair bids.

However, the parties recently received notice that two (2) of the shipyards that they originally agreed upon (Fairhaven Shipyard & Kingman Yacht Center) are not interested in surveying the defendant's vessel, presumably because of the underlying litigation. The parties are in the process of selecting substitute shipyards, and will provide the contact information for these shipyards to the Umpire as soon as possible. The plaintiff has submitted this Status Report to advise the Court that the parties, because of unforeseen circumstances, have been unable to fully comply with the deadlines contained in Paragraph Nos. 3 & 4 of the Order.

The plaintiff suggests to this Honorable Court that the Order not be modified or amended at this time. If the deadline for submitting repair bids, which at the present time is November 18, 2005 (Paragraph No. 5), cannot be met then the future handling of this matter can be discussed at the December 6, 2005 Status Conference.

Respectfully submitted,

**FOR THE PLAINTIFF**

"/s/Kenneth M. Chiarello"

Kenneth M. Chiarello

BBO NO: 639274

CLINTON & MUZYKA, P.C.

One Washington Mall

Suite 1400

Boston, MA 02108

(617) 723-9165

Dated: October 13, 2005